

October 28, 2002

TOWN OF NEW WINDSOR

ZONING BOARD OF APPEALS

OCTOBER 28, 2002

RECEIVED

DEC 11 2002

TOWN CLERK'S OFFICE

MEMBERS PRESENT: LAWRENCE TORLEY, CHAIRMAN
MICHAEL REIS
STEPHEN RIVERA

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

PATRICIA CORSETTI
ZONING BOARD SECRETARY

ABSENT: MICHAEL KANE
LEN MCDONALD

REGULAR MEETING

MR. TORLEY: I'd like to call the October 28, 2002 meeting to order. Entertain a motion to accept the minutes of 9/23/02.

MR. REIS: Make a motion we accept them.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. TORLEY	AYE

PRELIMINARY MEETINGS:

POST, WILLIAM

MR. TORLEY: Request for 6 ft. 6 in. rear yard variance for proposed deck at 1 Valewood Drive in an R-4 zone.

Mr. William Post appeared before the board for this proposal.

MR. POST: They told me to bring pictures.

MR. TORLEY: So what is it you wish to do?

MR. POST: I'm putting a 12 foot deck on the back of the house. The deck is 12 foot out, 16 long from the back of my house.

MR. TORLEY: Gentlemen, here's the pictures. How far is it going to be from the edge of your pool?

MR. POST: It's going to be a distance from the pool.

MR. TORLEY: Mike, is there some regulations about how far you can have a deck from the pool, that kind of thing, the fencing?

MR. BABCOCK: No, actually, you can have the deck right up to the pool.

MR. TORLEY: The existing fence meets the regulations for pool safety?

MR. POST: Yes.

MR. BABCOCK: I believe he's all set with that, Mr. Chairman with the pool, I'll check that.

MR. TORLEY: One of the things you're asking for an area variance which means you want to build your deck closer to the back line than you're allowed to. This is a balancing test between what you want to do, economic hardship, if you can't, economic benefit if you can versus any impact on your neighbors. One of the things that we're always concerned about is health

and safety, water drainage, so your proposed deck will not cause a change of any water drainage?

MR. POST: No.

MR. TORLEY: Not going to be building it over any easements?

MR. POST: No.

MR. TORLEY: Gentlemen, do you have anything?

MR. RIVERA: Are there in the neighborhood same, similar type of decks?

MR. POST: Yes, there are.

MR. REIS: By the looks of your picture you don't have to cut down any trees.

MR. POST: No, I moved into the house three years ago and there wasn't a deck there so I wanted to put one up.

MR. TORLEY: One of the things you're going to have to do in pursuance of this variance application is sending out mailings to your neighbors telling them, legal notice that you're going to have such and such a hearing, talk to your neighbors cause sometimes the legal notices are a little confusing and so the neighbors know that you're putting up a deck and not a toxic waste dump.

MR. POST: They already know.

MR. REIS: Accept a motion?

MR. TORLEY: Yes.

MR. REIS: Make a motion we set up Mr. William Post for his requested variance at 1 Valewood Drive.

MR. RIVERA: Second it.

ROLL CALL

October 28, 2002

4

MR. RIVERA	AYE
MR. REIS	AYE
MR. TORLEY	AYE

NEUMANN, PAUL

MR. TORLEY: Request for 1 ft. 9 in. rear yard variance for an existing single-family residence at 82 Hudson Drive in an R-4 zone.

Mr. Paul Neumann appeared before the board for this proposal.

MR. TORLEY: What's the problem?

MR. NEUMANN: What the problem is exactly sir is that my builders--

MR. TORLEY: Put the foundation in the wrong spot.

MR. NEUMANN: Essentially, yes, by 1 foot 9 inches, they had to essentially put up a box within a box within certain dimensions and they're off. Now what also at the same time I was talking to the building inspector informing him of this at the same time I was informed by the building inspector, Frank Lisi, to be exact and also Louis Kretcher (phonetic), I'm anticipating in the future a deck but that has nothing to do with this now so I'm just trying to put the rock before the stone, so to speak or whatever. And on this side of the house, this is the side that faces the woods on our lot, this would be the east side of the house, we originally had a deck there on the house prior, I'm just, I have a sliding glass door. Since I put that in, I had to have a means of egress to get in and out of the house, so we have a, some of the stairs there on that side and then on the back of the house which actually faces south and butts right up to number 80 Hudson Drive, we have another little deck with a set of stairs and I have the dimensions of those two decks, one is the rear deck right here is 11 foot three inches wide by ten foot four inches wide and the side deck right her is 4 feet wide by 15 feet long.

MR. TORLEY: You have two front yards so he gets to pick which is his rear yard then?

MR. BABCOCK: Well, he has to pick the one, it's because the other one will be worse, we're giving him

the benefit of the doubt of which his rear yard is.

MR. TORLEY: So you're assessing the rear yard as being one between the two houses?

MR. NEUMANN: Yes, sir.

MR. TORLEY: And the variance you're requesting is not including this deck or is including the deck?

MR. NEUMANN: It's including both these little decks and also the fact that it's over the setback boundary.

MR. TORLEY: And you do not anticipate putting in a bigger deck in the back?

MR. NEUMANN: Not for five or six years so I'll have to go through the hole process again. I don't have the money to do it now so I have no problem with that.

MR. REIS: Just to put you on notice, I guess I was involved with Mr. Neumann's first purchase on the property, his first house on this particular property, I just want to disclose that I'm in no way involved with what's happening now or there's no remuneration or reward for me voting on this. Okay, I'm just disclosing it to the board.

MR. TORLEY: Thank you very much, appreciate that. Gentlemen, do you have any questions at this time?

MR. RIVERA: Is it infringing on any waterways?

MR. NEUMANN: No.

MR. TORLEY: Doublecheck your measurements, give yourself enough slack, you don't want to say you're asking for 1 foot 9 inch variance if it turned out that you actually needed a 2 foot 9 inch rear yard variance, some day in the future bank may come down on you. We only go by what your measurements say, if this is a survey, so I assume it's accurate but if you're also talking about adding that little deck area for that back make sure those measurements are right, we can amend your request at some point.

October 28, 2002

7

MR. NEUMANN: All right.

MR. TORLEY: Gentlemen?

MR. RIVERA: Accept a motion?

MR. TORLEY: Yes, yes.

MR. RIVERA: Motion we set up Mr. Neumann for a requested 1 foot 9 inch rear yard variance to an existing single family residence at 82 Hudson Drive.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. TORLEY	AYE

KRONNER, PETER

MR. TORLEY: Request for use variance for catering operation at 10 Plympton Street in a PI zone.

Mr. Charles Brown and Mr. Peter Kronner appeared before the board for this proposal.

MR. BROWN: Charlie Brown representing Peter Kronner. We have been before the planning board for site plan and we don't meet zoning so we're seeking a use variance to put a catering facility in a PI zone.

MR. TORLEY: Your previous applicants which you may have heard we do area variances, this is a use variance, you're aware of the differences?

MR. BROWN: Yes, I am.

MR. TORLEY: And the hurdles you're going to have to overcome?

MR. BROWN: Yes.

MR. TORLEY: This has been a vacant property for quite some time.

MR. BROWN: Yes, we had the discussion with the planning board when we first submitted this application, actually gave us a positive referral to your board because they're all for this use in this particular site because again, there's been a real problem keeping the building occupied and they felt that this would be a good use for this building.

MR. TORLEY: Mike, a catering operation would be a PI zone could have a wholesale food operation couldn't it or a food processing site in a PI zone? I'm trying to think if we can in any way this could be asked for as an interpretation as to whether this is permitted under the PI zone rather than a use variance.

MR. BABCOCK: I don't have the PI bulk tables, we try to fit it in somewhere if it's in another zone, we automatically deal with it as a use variance, in other

words, if a catering facility would be allowed in a C zone and it says catering facilities, if it doesn't say catering facility in a PI then--

MR. TORLEY: But is there any way, yeah, I would recommend that we subject to your gentlemen's approval and your input that we might want to set him up for a use variance or alternative for interpretation should he wish to pursue that as well and see if I can make a case and I don't know whether he can or not.

MR. BROWN: There's another zone that does permit catering facilities.

MR. TORLEY: That's true but the question is is there any way you can stretch that to request an interpretation as a valid use under the zone. I don't know that it's possible but you can at least put that as part of your case. If that fails, you can go for a use variance. And I don't remember the details of the bulk table off the top of my head, I don't know if it is, it may be totally impossible to justify that but at least you can try if you wish. You're not going to be changing the footprint of the building?

MR. BROWN: No.

MR. TORLEY: Just going to be a catering and by catering you mean you'll be, people will not be coming there to eat, you'll be taking the food there to be delivered to some off-site--

MR. KRONNER: People will come here to eat.

MR. BABCOCK: Yes, he's going to have weddings and small parties.

MR. BROWN: The cooking will be done at other facilities.

MR. TORLEY: I was just hoping but if they're going to have people coming, restaurants aren't permitted in PI zones, are they?

MR. BABCOCK: No.

MR. REIS: Charlie, you have adequate parking here?

MR. BROWN: This is proposed, this is all proposed parking, again, this plan's been before the planning board again to get them to refer us to you, so this shows proposed parking layout.

MR. REIS: Assuming that the use is acceptable to the ZBA.

MR. BROWN: That's correct. We had several workshops with the town consultants and the parking reflected here is what's required for this use, this proposed use.

MR. REIS: May I make a comment? I'm familiar with the site as probably most of us know, it's had several uses over the last several years.

MR. TORLEY: Or attempted uses.

MR. REIS: In my opinion, it's a lower impact than what some other uses could be for a PI zone for the surrounding residential area.

MR. TORLEY: Not going to have much off-site noise or pollution impact.

MR. REIS: Right, minimal.

MR. TORLEY: Gentlemen, I'm going to, if you have no other questions, I will entertain a motion on this.

MR. REIS: Make a motion that we set up Peter Kronner for his requested use variance at 10 Plympton Street in a PI zone.

MR. TORLEY: Do you think it's worthwhile?

MR. REIS: And/or an interpretation.

MR. TORLEY: Again, I don't know, we'll try.

MR. RIVERA: Second it.

October 28, 2002

11

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. TORLEY	AYE

MONACO, CARMEN

Daniel Bloom, Esq. and Mr. Carmen Monaco appeared before the board for this proposal.

MR. TORLEY: Request for use variance to convert five-family apartment to a seven-family at 224 Walsh Road in an R-4 zone.

MR. BLOOM: Good evening, Mr. Chairman, how are you this evening? I'm representing Carmen Monaco this evening on this application and with your permission, I'd like to pass up some photographs that my client's taken of the premises from all different angles, just to give you a familiarity with it. As you're probably aware, he presently conducts his business, Active Auto Sales out of 220 Walsh Avenue in New Windsor. It's a mixed use, it's commercial, it's residential, we were before this board in 1997 and at that time sought a use variance so that he could conduct a commercial operation in the building that housed at that time five residential units. And the board granted that permission. We're back now because the commercial tenant that was in the front portion of that building operated a drapery shop, commercial drapery shop is going out of business or leaving the area and that being the case, it was his feeling that it would be a better use of the premises as well as better for the entire community if he could seek permission from this board to convert the existing commercial space on that lower level into two apartments so he would now have a seven family residential as opposed to a five family residential with a mixed use with the commercial. For your assistance in that regard, I can show you also one of the site plans prepared by Bill Hildreth with your permission, Mr. Chairman. I have an extra copy I can pass over here to other members of the board as well.

MR. TORLEY: Would these two new apartments meet the square footage requirements?

MR. BLOOM: To answer that question, my understanding is that they would. Is that correct, Carmen?

MR. MONACO: There's two apartments above it.

MR. BLOOM: The indication was from the planning board that the only variance requested was the use variance. There was no indication, Mr. Torley, of any other.

MR. TORLEY: Fifteen square feet plus or minus, is that 1,500 each or for the two?

MR. MONACO: Total.

MR. TORLEY: What's the minimum size for an apartment, isn't it 900? I can easily be wrong, but that number sticks in my mind.

MR. BABCOCK: I'm not sure, I have to check that.

MR. TORLEY: Cause 1,500 square feet for two apartments does sound small to me, but I can be wrong, easily.

MR. BLOOM: We'll check that.

MR. TORLEY: So you want to remove the commercial tenant, replace the 1,500 square feet with two apartments?

MR. BLOOM: Correct, sir, the commercial tenant's already given notice, they are, she's going to leave and we, my client just felt that rather than seek another commercial tenant with the obvious burden upon the existing residential tenants in the building, it would make more sense to lessen the impact on the existing tenants as well as the impact on the neighborhood as a whole by converting it to all residential use.

MR. TORLEY: Used car sales office is still there?

MR. BLOOM: Yes, it is, it's still mixed use, buildings plural, yes, but this particular building that houses the existing five residences as well as the existing drapery shop would become an exclusively residential unit.

MR. TORLEY: By the plan looks like it's all one building.

MR. MONACO: It's all connected. It's not really a used car lot as such, I'm just a wholesaler, I come and go out of the office and 95 percent of my sales are to other dealers. It's not like I have a salesman there with lots and advertising, none of that goes on.

MR. TORLEY: The building has always been kept very nicely, the area's very well kept, it has been an asset to the community.

MR. REIS: Maintain the same footprint of the facility?

MR. BLOOM: Yes.

MR. MONACO: Yes.

MR. BLOOM: Nothing exterior, no.

MR. REIS: Parking is adequate?

MR. MONACO: Yes.

MR. BLOOM: More than adequate.

MR. BABCOCK: The parking would be reduced based on the size of the commercial.

MR. TORLEY: How many apartments in a building are permitted in an R-4?

MR. BABCOCK: In R-4, one family house, it's a single family zone.

MR. TORLEY: I think the numbers would be--

MR. BABCOCK: R-5 would be different.

MR. TORLEY: Obviously, you're aware of the difficulties of the procedures required for a use variance?

MR. BLOOM: We are.

MR. TORLEY: Do you have any questions you'd like to

October 28, 2002

15

bring at this time?

MR. REIS: No. Accept a motion?

MR. TORLEY: Yes.

MR. REIS: Make a motion we set up Mr. Carmen Monaco for his requested use variance at 224 Walsh Road.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. TORLEY	AYE

PUBLIC HEARINGS:

ACCETTURA, JOSEPH

MR. TORLEY: Request for 5 ft. 2 in. front yard variance for proposed two-story addition at 1 Farmstead Road in an R-4 zone.

Mr. and Mrs. Joseph Accettura appeared before the board for this proposal.

MR. TORLEY: Is there anyone in the audience that wishes to speak on this matter besides the applicant? Seeing none, would you please so note for the record.

MS. CORSETTI: We have 34 addressed envelopes that went out containing the public hearing notice on October 16.

MR. TORLEY: So this is what it would look like on the outside? So what's the existing house now?

MRS. ACCETTURA: The garage is one level.

MR. TORLEY: You're going to expand the garage up?

MRS. ACCETTURA: Yes, up and out, this will show it better. This is the actual garage, this will become, this garage will go in the front, this will become living area and this is what's going above the garage and it will go back here, it will go up to about a little piece of the front of the garage and over the existing--

MR. TORLEY: The problem is the distance from the garage to the front.

MRS. ACCETTURA: It's not this, yes, it's this way, but the problem is this way, I have two frontages on a corner lot, it's from here to there, I need the offset here, but not here because it curves, if you look, I need it over here but it slants in.

MR. TORLEY: So the variance exists off Blooming Grove Turnpike not Farmstead?

MR. BABCOCK: That's correct, Farmstead she meets the 35 foot front yard, we're putting the addition straight parallel with the house, she gets closer to the property line as she goes out.

MR. TORLEY: So were this a standard type, a standard type lot absent two front yards, there'd be no variance required?

MR. BABCOCK: That's correct, she's not going out any farther than in front of her house, it's just the idea that she's going out farther and the property line gets closer as she goes.

MR. TORLEY: Obviously, ma'am, for you to create this addition with a slant so it paralleled the road frontage would detract in the efficiency of it?

MRS. ACCETTURA: And the beauty.

MR. TORLEY: And make it less valuable?

MRS. ACCETTURA: Yes.

MR. TORLEY: You're not going over any easements or water or sewer lines?

MRS. ACCETTURA: No.

MR. TORLEY: Not going to be changing the drainage patterns?

MRS. ACCETTURA: No, I mean, he will probably do a footing drain but they're going to do it the same, it's going to connect into everything.

MR. TORLEY: And this addition even though it encroaches somewhat on the front yard and the corner will not abstract drivers' visions in any way?

MRS. ACCETTURA: Not at all because it's set 35 feet back from the front.

MR. TORLEY: Gentlemen, turn it over to you.

MR. REIS: No further questions.

MR. RIVERA: No questions.

MR. TORLEY: Since there's no one in the audience, we'll open and close the public hearing.

MR. KRIEGER: If the variance were granted, it would make it, it wouldn't make the house significantly larger than any other house in the neighborhood?

MRS. ACCETTURA: No, there's a bigger house in the neighborhood already, it's 5,700 square feet, that's the old Antonelli house.

MR. TORLEY: Gentlemen, any questions at this time or entertain a motion?

MR. REIS: I'll make a motion that we pass Joseph Accettura's requested variance at 1 Farmstead Road.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. TORLEY	AYE

CHIN, NEA SUM

MR. TORLEY: Request for 4.2 ft. side yard variance for existing shed at 21 Clarkview Road in an R-4 zone.

Ms. Mary Chin appeared before the board for this proposal.

MR. TORLEY: Is there anyone in the audience who wishes to speak on this matter? Please let the record show there is none.

MS. CORSETTI: For the record, we sent out 68 notices, there were 68 legal notices that went out to adjacent property owners.

MS. CHIN: I have one reply.

MR. TORLEY: Receive this in the matter of Nea Sum Chin, I don't know who this is from, Francis A. O'Neil who in summary we have absolutely no objection to this shed. Yes, ma'am?

MS. CHIN: I just, here's the picture of the shed and it's 6 feet, it's an existing shed, I would move it but it's just, it's too big, I can't move the shed and so I need a variance of approximately 4 feet so I can keep the shed.

MR. RIVERA: Does it have a foundation?

MS. CHIN: It's on a slab.

MR. TORLEY: So it would be economically infeasible to move the shed?

MS. CHIN: Yeah, unless you guys want to help me move it.

MR. TORLEY: We don't have any deals with chiropractors.

MR. BABCOCK: I understand that the shed was there when you bought this house.

MS. CHIN: Yes.

MR. BABCOCK: That's something that the board should know.

MR. TORLEY: It's a pre-existing shed, do other people in the neighborhood have similar kinds of sheds, not necessarily identical but other people have sheds?

MS. CHIN: Yeah, similar.

MR. TORLEY: Have you had any complaints from your neighbors about the shed?

MS. CHIN: No.

MR. TORLEY: Formal or informal?

MS. CHIN: No.

MR. TORLEY: The shed where it is doesn't cause drainage problems or obstruct traffic views or anything like that?

MS. CHIN: No.

MR. KRIEGER: It's not built over the top of water or sewer easements?

MS. CHIN: No.

MR. RIVERA: Accept a motion?

MR. TORLEY: Not yet. Now, did you have anything you wish to say? I'll open it up to the public. The shed is too close to her property line for the code, she's asking for a variance to let the shed stay where it is. So I'll close the public hearing and open it back to the members of the board.

MR. RIVERA: Accept a motion?

MR. TORLEY: Yes, sir.

MR. RIVERA: I make a motion we grant approval for Miss

October 28, 2002

21

Chin's requested 4.2 foot side variance for the existing shed at 21 Clarkview Road.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. TORLEY	AYE

YARUS, ANN

Mr. and Mrs. Yarus appeared before the board for this proposal.

MR. TORLEY: Request for 10 ft. rear yard variance to construct addition to residence at 744 Blooming Grove Turnpike in an R-4 zone.

MS. CORSETTI: We sent out 34 notices on October 2.

MR. TORLEY: And there's no one here. Please so note.

MRS. YARUS: We also had the ad in The Sentinel, legal notice alerting the community.

MR. TORLEY: Otherwise you wouldn't be here.

MRS. YARUS: So we believe we have complied with all of the issues and just to restate we're adding an addition to our house which is in compliance with the rest of the neighborhood. I inherited this house from my dad who was the original owner from the '60's and so we have, we're investing in the community and the house with its additions will enlarge the space but not necessarily create a structure which is that different from the existing properties in the neighborhood. I might add that Dr., the dentist O'Brien recently re-made his structure and that certainly adds to the value of the street and our addition is actually less, I believe than what he's doing or has done.

MR. TORLEY: I'm looking at the floor plans for this requested addition, what's the present front of the house, this is the existing?

MRS. YARUS: No, this is all back, the front is remaining the same, if you have the photographs of the front it's a rear yard variance, we have not changed the side or the front from the original footprint, all we're doing is going out the back.

MR. BABCOCK: They're having, they have two front yards, they border on Blooming Grove Turnpike in the front and Provost in the back.

MR. TORLEY: So this is a two front yard?

MR. BABCOCK: Actually, no, yeah, they don't, I'm sorry, they don't, according to this map, they do but that's okay, they don't, there's a house between you and Provost.

MR. YARUS: Yes, there is.

MR. TORLEY: That's a rear yard variance request, the plan I'm looking at the master bedroom existing now and you're putting on a sun room, is that it?

MRS. YARUS: That's correct.

MR. TORLEY: And the sun room and its associated decking closer to the rear yard than the existing structure by a couple feet, looks like, and that's the cause of the variance?

MRS. YARUS: That's correct.

MR. TORLEY: This addition will not change the drainage or you're not taking down trees?

MR. YARUS: We're going to remove one small Mimosa tree that's right here, we have some of the tallest Poplar trees in New Windsor, they'll be unharmed and we have a number of Willows which will remain. Also we're not changing the drainage.

MR. TORLEY: Obviously, we can assume from the lack of an audience and replies that your neighbors have no objection.

MRS. YARUS: We have spoken to the neighbors, they know what we're doing and they welcomed it, it adds to the value of their property that we're enhancing our own and we're right on the highway and of course, in the front of that development so they seem to be very accepting. We have made other improvements on the house since we have owned it but this is a further investment in New Windsor.

MR. REIS: Can you give us a quick overview here, please? This is it, right?

MRS. YARUS: Yes, that's the upstairs bedroom extension, yes.

MR. REIS: Anything happening here?

MRS. YARUS: This is the extension of the sun room which will be an enclosed room, actually, and it's just this is an addition that was done years ago and then this is going to be an extension of that.

MR. REIS: From here to here is the extension.

MRS. YARUS: Yes and then here there will be a deck along the side with stairs to go downstairs.

MR. REIS: Thank you.

MR. TORLEY: Gentlemen?

MR. KRIEGER: Would it be over the top of any water or sewer easement?

MR. YARUS: No, it will not be.

MR. REIS: No further questions.

MR. TORLEY: Gentlemen, entertain a motion on this matter.

MR. REIS: Make a motion that we grant the variance at 744 Blooming Grove Turnpike for the addition.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. TORLEY	AYE

MRS. YARUS: I have a question in terms of when we could begin with the, what the builder would have to

do.

MR. BABCOCK: You have to go get your building permit.

MRS. YARUS: He would go do that or we?

MR. BABCOCK: I see there's a note that the plans need to be stamped, the building plans.

MRS. YARUS: Right, those were drafts, yes.

MR. BABCOCK: So you have to bring them back to the office stamped and then I don't know how much of a review they've done yet because you need a variance so they'll have to review it. Usually that's a few days and they call you and tell you to come get your permit.

MRS. YARUS: So the stamped plans have to be brought to the office, reviewed and then we get the permit and then the permit means we can start at any time?

MR. BABCOCK: That's correct.

MRS. YARUS: Thank you very much.

FORMAL DECISIONS

1. Riley
2. Puglio
3. Thom
4. Lovano

MR. TORLEY: We have four formal decisions.

MR. REIS: I make a motion that we accept them in bulk.

MR. RIVER: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. TORLEY	AYE

MR. TORLEY: Motion to adjourn.

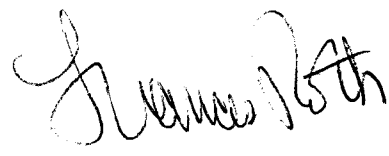
MR. RIVERA: So moved.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. TORLEY	AYE

Respectfully Submitted By:


Frances Roth
Stenographer
11/7/02

In the Matter of the Application of

THOMAS RILEY

MEMORANDUM
OF DECISION
GRANTING
VARIANCE

#02-38.

WHEREAS, THOMAS RILEY, 9 Broad Street, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for a 14 ft. front yard variance for construction of a covered porch at the above single-family residence in an R-4 zone; and

WHEREAS, a public hearing was held on the 12th day of August, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared for this Application; and

WHEREAS, there were no spectators appearing at the public hearing; and

WHEREAS, no one spoke in opposition to the Application; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a residential property located in a neighborhood of residential properties.

(b) The residence is smaller in size as compared to other neighboring homes in the area.

(c) The residence is located on the lower-flat portion of the street so that when the porch is constructed in the front of the residence, there will be no obstruction of view.

(d) There are similar front porches in the neighborhood, some of which protrude further into the front yard than Applicant's residence.

(e) Applicant states that there is a safety hazard, which will be prevented when stepping out the front door if the proposed porch is not allowed to be constructed.

(f) No runoffs or water hazards will be created by the construction of the proposed porch.

(g) The construction of the proposed porch will not cause the ponding or collection of water, nor will any trees be eliminated

(h) The proposed porch will not be built on top of any water or sewer easements.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to the Applicant that can produce the benefits sought.

3. The variance requested is substantial in relation to the Town regulations, but nevertheless is warranted.

4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.

7. The interests of justice will be served by allowing the granting of the requested area variance.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 14 ft. front yard variance for construction of a covered porch, at the above residence, in an R-4 zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: October 28, 2002.


Chairman

-----X
In the Matter of the Application of

JANET PUGLIA

MEMORANDUM
OF DECISION
GRANTING
VARIANCES

#02-43.
-----X

WHEREAS, JANET PUGLIA, 5 Birchwood Drive, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for a 5 ft. side yard and 7 ft. rear yard variance for construction of an attached pool deck at the above single-family residence in an R-4 zone; and

WHEREAS, a public hearing was held on the 12th day of August, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared for this Application; and

WHEREAS, there were no spectators appearing at the public hearing;
and

WHEREAS, no one spoke in opposition to the Application; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a residential property located in a neighborhood of residential properties.

(b) The proposed attached pool deck around an existing above-ground pool will not create any drainage problems or cause the ponding or collection of water.

(c) Since the existing above-ground pool is located adjacent to a hill, it is feasible that others in the neighborhood could jump from the hill into the pool. The attached pool deck will be constructed in such a way so that an incident of this type may be avoided.

(d) The proposed attached pool deck will be similar to other decks in the neighborhood.

(e) The proposed attached pool deck will not be built on top of any water or sewer easements.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to the Applicant that can produce the benefits sought.

3. The variances requested are substantial in relation to the Town regulations, but nevertheless are warranted.

4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variances are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.

7. The interests of justice will be served by allowing the granting of the requested area variances.

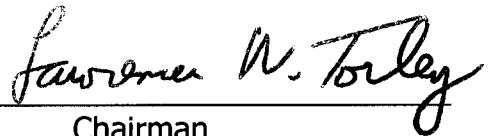
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 5 ft. side yard and 7 ft. rear yard variance for construction of an attached pool deck around an above-ground pool, at the above residence, in an R-4 zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: October 28, 2002.


Chairman

-----X
In the Matter of the Application of

DAVID THOM

#02-41.
-----X

MEMORANDUM
OF DECISION
GRANTING
VARIANCES

WHEREAS, DAVID THOM, 104 John Street, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for a 35 ft. and 32.5 ft. front yard variance for existing decks and 27.66 ft. front yard variance for existing addition, plus 6.3% developmental coverage for residence with **three** front yards at the above residence in an R-4 zone; and

WHEREAS, a public hearing was held on the 12th day of August, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared for this Application; and

WHEREAS, there were no spectators appearing at the public hearing; and

WHEREAS, no one spoke in opposition to the Application; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a residential property located in a neighborhood of mixed commercial and residential properties.

(b) The property is unique since it is located on a small, triangular piece of property containing three front yards.

(c) The property abuts property owned by the NYS Department of Transportation (Route 9W) on what actually appears to be the rear of the structure.

(d) The residence contains one bathroom which was added in the late 1970's. The existing two decks were constructed in 1993 by the previous owner.

(e) The entire parcel upon which the residence is located is undersized, having approximately 1,485 sq. ft. of space. The previous owner constructed the house on the undersized parcel, thereby creating the need for a 63% developmental coverage variance.

(f) No complaints, either formal or informal, were received regarding Applicant's property.

(g) The residential structure and fence are uniquely placed so that there is no visible obstruction to drivers on the adjacent highways.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to the Applicant that can produce the benefits sought.

3. The variances requested are substantial in relation to the Town regulations, but nevertheless are warranted.

4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variances are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.

-----X
In the Matter of the Application of

JOSEPH LOVANO

MEMORANDUM OF
DECISION GRANTING
AREA VARIANCE

#02-42.
-----X

WHEREAS, JOSEPH LOVANO, residing at 66 Beaver Brook Road, New Windsor, New York, N. Y. 12553, has made application before the Zoning Board of Appeals for a variation of Section 48-14A(4) of the Supplemental Yard Regulations to allow a proposed shed to project closer to road than principle structure at the above single-family residence in an R-4 zone; and

WHEREAS, a public hearing was held on the 12th day of August, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared with Mrs. Lovano on behalf of this Application; and

WHEREAS, there were no spectators appearing at the public hearing; and

WHEREAS, no one spoke in favor or in opposition to the Application; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a residential property consisting of a one-family home located in an R-4 zone neighborhood containing one-family homes.

(b) The proposed location of the shed is in what appears to be the front yard of the property and will not be visible from the road.

(c) The construction of the shed will not create any ponding or collection of water.

(g) The shed will not be erected on top of any public sewer or water easement, septic or well.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The requested variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
2. There is no other feasible method available to the Applicant which can produce the benefits sought.
3. The variance requested is substantial in relation to the Town regulations but nevertheless is warranted.
4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.
6. The benefit to the Applicant, if the requested variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.
7. The requested variance is appropriate and is the minimum variance necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
8. The interests of justice will be served by allowing the granting of the requested area variance.

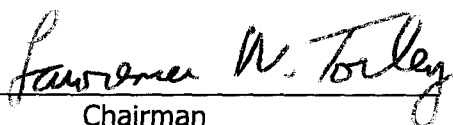
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a variation of Section 48-14A(4) of the Supplemental Yard Regulations to allow a shed to project closer to the road than principle structure at the above address, in an R-4 zone as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: October 28, 2002.


Chairman

7. The interests of justice will be served by allowing the granting of the requested area variances.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 35 ft. and 32.5 ft. front yard variances for existing decks and 27.66 ft. front yard variance for existing addition, plus 63% developmental coverage for the above residence, in an R-4 zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: October 28, 2002.


Chairman